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State of Alaska Department of Law
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To acting Attorney General Richard Svobodny:

Please consider this ethics complaint filed against Governor Sarah Palin for the following violations of the Alaska Executive Branch Ethics Act:

Sec. 39.52.120. Misuse of official position.

(a) A public officer may not use, or attempt to use, an official position for personal gain...

(b) A public officer may not

(3) use state time, property, equipment, or other facilities to benefit personal or financial interests;

And:

Sec. 39.52.170. Outside employment restricted.

(c) The head of a principal executive department of the state may not accept employment for compensation outside the agency that the executive head serves.

These violations of the Ethics Act are based upon facts understood within the Alaska Statutes:

1) "Governor Palin is the Governor 24-7," as her Press Secretary Bill McAllister has stated repeatedly, per Alaska Statute:

AS 39.20.060. Exclusion of Governor and Lieutenant Governor From Personnel Laws.

Notwithstanding the provisions of any other law, the governor and lieutenant governor are not considered employees of the state for the purpose of state personnel laws relating to hours of employment, annual leave, sick leave, overtime, compensatory time, and travel allowances.

She also receives her salary for services rendered 24-7:

AS 39.20.050. Exclusive Compensation.

The compensation fixed by law for the governor and lieutenant governor is in full for all services rendered by each of them in any official capacity or employment whatsoever during their respective terms of office, and shall be paid throughout their respective terms of office unless the office becomes vacant.

Therefore, the Governor is not entitled to receive personal leave, is officially representative of the State of Alaska at all times and is subject to the Alaska Executive Branch Ethics Act 24-7 as well.

2) An official letter from former Attorney General Talis Colberg to Governor Palin (page 6) identifying himself as the Governor's Ethics Supervisor clarifies the Executive Ethics Law and lays out specific guidelines for chief executives regarding "outside employment":
http://www.governmentattic.org/2docs/AK-AG_Palin_2007-08.pdf

However, the Ethics Act also precludes "the head of a principal executive department of the state" from engaging in "outside employment."² *The Office of the Governor is a principal department of the state. Therefore, as head of that office, **you may not be engaged in outside employment.** We construe "employment" to have its ordinary meaning.*

These definitions of "outside employment" are explained in an official attachment to the memo for the Governor (page 8), a list of Frequently Asked Questions that is given to new state employees:

3. What does "outside employment" include?

- *Any employment for which you are paid, but not your state employment.*
- *Examples: a job with another employer, **work as an independent contractor, and work in your own business.***

3) Also, per Statute, state employees are restricted from conflicts with official duties:

*The statute (AS 39.52. 170 a) **restricts public employees from providing services that benefit a personal interest if those services are incompatible or in conflict with the proper performance of official duties.***

While the Governor is restricted from ALL outside employment, this standard of "conflict with proper performance of official duties" could be used as a determination of whether the Governor is engaged in outside employment.

This ethics complaint asserts that:

a) **Governor Palin has entered into a contract outside of her official duties with the donors, employees, partners and any or all other participants involved in SarahPAC, expressly violating Sec. 39.52.170 of the Alaska Executive Branch Ethics Act.**

Governor Sarah Palin (with assistance) formed a Political Action Committee called "SarahPAC." The purpose, according to the FAQ on the website: <http://www.sarahpac.com/faq/>

*Your support of SarahPac will make it possible for Gov. Palin to continue to be a strong voice for energy independence and reform. **By supporting SarahPac, you will allow Gov. Palin to help find and create solutions for America's most pressing problems; priority number one is building a strong and prosperous economy that recognizes hard work, innovation and integrity by rewarding small businesses and hard working American families.** SarahPac will support local and national candidates who share Gov. Palin's ideas and goals for our country.*

The standard legal definition for a “contract” is as follows:

An agreement between two or more competent parties in which an offer is made and accepted, and each party benefits. The agreement can be formal, informal, written, oral or just plain understood.

Looking at the website information, we can see those basic elements of a contract:

Offer made: “By supporting SarahPac, you will allow Gov. Palin to help find and create solutions for America's most pressing problems; priority number one is building a strong and prosperous economy that recognizes hard work, innovation and integrity by rewarding small businesses and hard working American families.”

Offer accepted: Donation

Most importantly...SarahPAC is obligating Governor Palin to “solve America's most pressing problems” and work for “American families.” This “priority one” can repeatedly result in a direct conflict with her job as Governor, which has the much smaller focus of the Alaskan people. What is good for the lower-48 is not necessarily good for Alaska, and vice versa.

b) The recent partisan trip to Indiana by the Governor was purely to benefit personal interests, had no benefit for the State of Alaska and was in direct conflict with her official duties.

Governor Palin made a trip to Indiana to speak at a Right-to-Life banquet and a breakfast for families with Down Syndrome children that was completely paid through monies donated to Sarah PAC: <http://firstread.msnbc.msn.com/archive/2009/04/01/1873946.aspx>

Palin's spokeswoman, Meg Stapleton, said Palin will be taking a "36-hour vacation" to attend the events in Indiana. Palin's political action committee will pay for the travel.

-- As previously noted in “number one” above (with the applicable statute), Governor Palin cannot take a “36-hour vacation” from the duties and obligations of the Governor’s office. Nor can she take a “36-hour vacation” from the requirements of the Alaska Executive Branch Ethics Act barring her from partisan political activities for personal benefit on State time. She continues to draw her Governor’s salary and remains the top executive of the State of Alaska 24-7, unless she relinquishes her duties to the Lt. Governor.

-- Her attendance at these activities had no real benefit for the State of Alaska.

-- This was a trip made at the behest of her SarahPAC contributors in the lower-48. She clearly describes during her speech that “the Governor’s office” looked forward to the “enticements” and “bribes” of chocolates, pastries and a hockey stick sent to convince her to make the trip to Indiana.

<http://www.youtube.com/watch?v=vFw4fg2VsP4>

If these had been official activities, her comments during the speech could be construed as an ethics violation:

Sec. 39.52.130. Improper gifts.

(a) A public officer may not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment, promise, or in any other form, that is a benefit to the officer's personal or financial interests, under circumstances in which it could reasonably be inferred that the gift is intended to influence the performance of official duties, actions, or judgment.

So, one must take this as verification that this trip was not in any way related to her official duties.

c) The Governor left the State to participate in these events during the most critical end-of-session Legislative activities, at a time when the legislators themselves are not permitted to leave.

These activities left undone at the time of her leaving include but are not limited to: failing to achieve agreement among the legislators and with the Governor regarding the Stimulus money; failing to be there to support her appointee to the position of Attorney General, Wayne Anthony Ross, whose confirmation was clearly in jeopardy when she left; failing to have a dialogue regarding the Capital Budget; failing to be available to discuss “high priority” energy issues; failing to resolve the disagreement with the Senate Democrats over the appointment to Kim Elton’s Senatorial position, etc. This is even the perception of Legislators who have a past history of supporting the Governor:

http://www.nytimes.com/2009/04/16/us/politics/16palin.html?_r=1

“The source of the greatest tension this year between the Legislature and the executive has been certainly the appearance that the executive is prioritizing her national image, her national brand, over the day-to-day operations of state government and the interests of the State of Alaska,” said Mike Hawker, the Republican co-chairman of the House Finance Committee.

One could argue that a Governor “should have the right” to campaign for higher office if he/she has the desire and is able, but that is not the issue here. At the present time Governor Sarah Palin is NOT a candidate for higher office and has adamantly stated so herself and through her spokespeople. Moreover, Governor Palin is not even a candidate for re-election to her present office as it is too early under APOC rules to collect campaign money and she has not yet announced whether in fact she is seeking re-election. It should be noted as well that if she were campaigning for Governor that would not take her out of the state.

The issue here is the Alaska Executive Branch Ethics Law and whether or not the Governor should be required to abide by it.

The scope of the ethics code states:

...that each public officer holds office as a public trust, and any effort to benefit a personal or financial interest through official action is a violation of that trust;

...standards of ethical conduct for members of the executive branch need to distinguish between those minor and inconsequential conflicts that are unavoidable in a free society, and those conflicts of interests that are substantial and material.

The definitions of the ethics code states that “benefit” is defined as anything that is to a person’s advantage or self-interest, or from which a person profits, regardless of the financial gain...

I'm requesting that this complaint be forwarded to the Alaska Personnel Board so that a thorough investigation is done on Sarah Palin's substantial and material misuse of official position and abuse of state time, property and resources for purposes unrelated to Alaska's interests, but rather to Sarah Palin's personal and political interests.

Thank you for your prompt attention to this matter. Please don't hesitate to contact me with questions and concerns.

Sincerely,

Sondra Tompkins